

REMARKS

The comments of the Examiner set forth in the official Office Action of March 23, 2008 have been carefully studied and reviewed. In this Response, claims 14 through 33 have been cancelled and new claims 35 and 36 have been added.

All pending claims stand rejected under 35 U.S.C. §102 as being anticipated by Greep, et al, U.S. 6,783,525. For the reasons set forth below, it is respectfully urged that the claims are not anticipated by Greep.

First, claim 1 is directed to a method of removing a polyp. Greep does not teach removing a polyp. Indeed, the Examiner's rejection does not maintain that Greep teaches removing a polyp. However, the Examiner maintains that the device of Greep is "capable of removing a polyp." Respectfully, that is not the proper anticipation test for a method or process claim. It is acknowledged that the Patent Office does sometimes utilize the "capable of" doctrine in §102 rejections for apparatus claims. Even that doctrine is suspect in that there is little authority for such. However, that doctrine has never been extended to a method or process claim. It is undisputable that Greep, et al. does not teach a method for removing a polyp.

In addition, claim 1 calls for severing a polyp from a surface by discharging electrical energy from a conductive hook. Greep, et al. does not use a conductive hook. Greep's hook is not an electrical conductor. Indeed, Greep's hook is insulated by Teflon for example. Greep's hook produces radio frequency (RF) energy and is unlike Applicant's conductive hook which contacts or engages the polyp and conducts electrical energy directly into the polyp while simultaneously strangling and severing the polyp. (See Figures 6A and 6B and Spec, pg. 6, lines 15-19).

The Patent Office does not particularly address any of the dependent claims. Claims 3 and 5 for example are limited to a method including retracting the conductive hook about the polyp and retracting at least a portion of the conductive hook into a sheaf. There is no teaching

In Greep of retracting the hook into a sheath. Claims 3 and 5 are not anticipated by Greep, et al.

Claim 7 further calls for inserting a tip of the conductive hook into an opening in the sheath. This was not addressed by the Patent Office. Greep, et al. does not disclose this feature of the claimed invention.

Claim 10 calls for removing a polyp from a colon. Certainly, Greep does not teach this feature of the present invention. Indeed, it is difficult to see how the device shown in Figure 1 of Greep could be utilized for reaching polyps inside a colon of a patient.

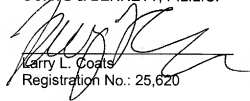
New claim 35 has been added. New claim 35 includes the step of inserting the conductive hook into the colon of a patient where there is at least one polyp in the colon. Greep, et al. does not disclose inserting the hook or any portion of the device into the colon of a patient. Further, claim 35 calls for contacting the polyp with the conductive hook and conducting electrical energy into the polyp and simultaneously strangling and severing the polyp. (See Figures 6A and 6B and Spec, pg. 6, lines 15-19). Greep, et al. does not teach this feature.

Claim 36, which depends from claim 35, calls for retracting at least a portion of the hook within the sheath during the method of removing the polyp. Again, that feature is not taught or suggested by Greep, et al.

For the foregoing reasons, it is respectfully urged that all claims in the present application define over Greep, et al. and allowance is requested.

Respectfully submitted,

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